



The Daily Dish

The EPA Endangerment Finding

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In 2009, the Environmental Protection Agency (EPA) issued the following:

Endangerment Finding: The Administrator finds that the current and projected concentrations of the six key well-mixed greenhouse gases—carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆)—in the atmosphere threaten the public health and welfare of current and future generations.

The endangerment finding was a pivotal moment in U.S. climate change policy. Shuting Pomerleau has the [full story](#), but the short version is that the so-called “endangerment finding” came in response to years of litigation, including a Supreme Court decision. More important, under the Clean Air Act (CAA), if the EPA concludes that emissions are harmful to the public health and welfare, it must regulate them. Thus, the endangerment finding has been the foundation of U.S. greenhouse gas regulations.

Now, the EPA may be poised [to reverse](#) the endangerment finding. This comes in response to an [executive order](#) directing the EPA to review the “legality and continuing applicability of” the endangerment finding. The logic is simple: Reverse the endangerment finding and you reverse the need for greenhouse gas regulations.

Or not. As Pomerleau notes, “The IRA [Inflation Reduction Act] added seven new sections to the CAA that [include explicit language](#) deeming the six types of GHGs specified in the endangerment finding are air pollutants and that reducing them is a core objective of the CAA.” That is, there is explicit language: “The term ‘greenhouse gas’ means the air pollutants carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, and sulfur hexafluoride.”

The CAA had two kinds of air pollutants. Those identified in the text and those later identified to endanger the public health and welfare. The former had to be regulated no matter what,

while the latter awaited an endangerment finding. The IRA simply switched the greenhouse gases from the latter to the former, meaning the EPA must regulate them even in the absence of the endangerment finding.

This does not mean that reversing the endangerment finding has no impact. Without the endangerment finding, the benefits of regulating emissions would fall dramatically, making it harder to impose strict regulations and meet a benefit-cost test. So, the likely result of reversing the endangerment finding would be court challenges, regulatory upheaval, and great uncertainty over the future path of U.S. climate policy.